

Adopted	Rejected
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COMMITTEE REPORT

YES:	12
NO:	0

MR. SPEAKER:

Your Committee on **Commerce, Energy and Utilities**, to which was referred Senate Bill 206, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
- 2 "SECTION 1. IC 8-1-2-6.1 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.1. (a) As used in
- 4 this section, "clean coal technology" means a technology (including
- 5 precombustion treatment of coal):
- 6 (1) that is used at a new or existing electric **or steam** generating
- 7 facility and directly or indirectly reduces **or avoids** airborne
- 8 emissions:
- 9 (A) of:
- 10 (i) **carbon**, sulfur, **mercury**, or nitrogen based pollutants; **or**
- 11 (ii) **particulate matter**;
- 12 (B) **that are** associated with the combustion or use of coal;
- 13 and
- 14 (C) **that are regulated, or reasonably anticipated by the**
- 15 **commission to be regulated, by:**
- 16 (i) **the federal government**;

1 (ii) the state;

2 (iii) a political subdivision of the state; or

3 (iv) any agency of a unit of government described in
4 items (i) through (iii); and

5 (2) that either:

6 (A) is not in general commercial use at the same or greater
7 scale in new or existing facilities in the United States as of
8 January 1, 1989; or

9 (B) has been selected by the United States Department of
10 Energy for funding under its Innovative Clean Coal
11 Technology program and is finally approved for such funding
12 on or after January 1, 1989.

13 (b) As used in this section, "Indiana coal" means coal from a mine
14 whose coal deposits are located in the ground wholly or partially in
15 Indiana regardless of the location of the mine's tipple.

16 (c) Except as provided in subsection (d), the commission shall allow
17 a utility to recover as operating expenses those expenses associated
18 with:

19 (1) research and development designed to increase use of Indiana
20 coal; and

21 (2) preconstruction costs (including design and engineering costs)
22 associated with employing clean coal technology at a new or
23 existing coal burning electric **or steam** generating facility if the
24 commission finds that the facility:

25 (A) utilizes and will continue to utilize (as its primary fuel
26 source) Indiana coal; or

27 (B) is justified, because of economic considerations or
28 governmental requirements, in utilizing non-Indiana coal;

29 after the technology is in place.

30 (d) The commission may only allow a utility to recover
31 preconstruction costs as operating expenses on a particular project if
32 the commission awarded a certificate under IC 8-1-8.7 for that project.

33 (e) The commission shall establish guidelines for determining
34 recoverable expenses.

35 SECTION 2. IC 8-1-2-6.6 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.6. (a) As used in
37 this section:

38 "Clean coal technology" means a technology (including

- 1 precombustion treatment of coal):
- 2 (1) that is used at a new or existing electric **or steam** generating
- 3 facility and directly or indirectly reduces **or avoids** airborne
- 4 emissions:
- 5 (A) of:
- 6 (i) **carbon**, sulfur, **mercury**, or nitrogen based pollutants; **or**
- 7 (ii) **particulate matter**;
- 8 (B) **that are** associated with **the** combustion or use of coal;
- 9 and
- 10 (C) **that are regulated, or reasonably anticipated by the**
- 11 **commission to be regulated, by:**
- 12 (i) **the federal government**;
- 13 (ii) **the state**;
- 14 (iii) **a political subdivision of the state; or**
- 15 (iv) **any agency of a unit of government described in**
- 16 **items (i) through (iii); and**
- 17 (2) that either:
- 18 (A) is not in general commercial use at the same or greater
- 19 scale in new or existing facilities in the United States as of
- 20 January 1, 1989; or
- 21 (B) has been selected by the United States Department of
- 22 Energy for funding under its Innovative Clean Coal
- 23 Technology program and is finally approved for such funding
- 24 on or after January 1, 1989.
- 25 "Indiana coal" means coal from a mine whose coal deposits are
- 26 located in the ground wholly or partially in Indiana regardless of the
- 27 location of the mine's tipple.
- 28 "Qualified pollution control property" means an air pollution control
- 29 device on a coal burning electric **or steam** generating facility or any
- 30 equipment that constitutes clean coal technology that has been
- 31 approved for use by the commission, that meets applicable state or
- 32 federal requirements, and that is designed to accommodate the burning
- 33 of coal from the geological formation known as the Illinois Basin.
- 34 "Utility" refers to any electric **or steam** generating utility allowed
- 35 by law to earn a return on its investment.
- 36 (b) Upon the request of a utility that began construction after
- 37 October 1, 1985, and before March 31, 2002, of qualified pollution
- 38 control property that is to be used and useful for the public

convenience, the commission shall for ratemaking purposes add to the value of that utility's property the value of the qualified pollution control property under construction, but only if at the time of the application and thereafter:

- (1) the facility burns only Indiana coal as its primary fuel source once the air pollution control device is fully operational; or
- (2) the utility can prove to the commission that the utility is justified because of economic considerations or governmental requirements in utilizing some non-Indiana coal.

(c) The commission shall adopt rules under IC 4-22-2 to implement this section.

SECTION 3. IC 8-1-2-6.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.7. (a) As used in this section, "clean coal technology" means a technology (including precombustion treatment of coal):

- (1) that is used in a new or existing electric **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) carbon, sulfur, mercury, or nitrogen based pollutants; or

(ii) particulate matter;

(B) that are associated with the combustion or use of coal; and

(C) that are regulated, or reasonably anticipated by the commission to be regulated, by:

(i) the federal government;

(ii) the state;

(iii) a political subdivision of the state; or

(iv) any agency of a unit of government described in items (i) through (iii); and

- (2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

(b) The commission shall allow a public or municipally owned electric **or steam** utility that incorporates clean coal technology to depreciate that technology over a period of not less than ten (10) years or the useful economic life of the technology, whichever is less and not more than twenty (20) years if it finds that the facility where the clean coal technology is employed:

(1) utilizes and will continue to utilize (as its primary fuel source)

Indiana coal; or

(2) is justified, because of economic considerations or governmental requirements, in utilizing non-Indiana coal;

after the technology is in place.

SECTION 4. IC 8-1-2-6.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.8. (a) This section applies to a utility that begins construction of qualified pollution control property after March 31, 2002.

(b) As used in this section, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing energy generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) **carbon**, sulfur, mercury, or nitrogen oxides;

(ii) **particulate matter**; or

(iii) other ~~regulated~~ air emissions;

(B) **that are** associated with the combustion or use of coal; and

(C) **that are regulated, or reasonably anticipated by the commission to be regulated, by:**

(i) **the federal government;**

(ii) **the state;**

(iii) **a political subdivision of the state; or**

(iv) **any agency of a unit of government described in items (i) through (iii); and**

(2) that either:

(A) was not in general commercial use at the same or greater scale in new or existing facilities in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549); or

(B) has been selected by the United States Department of

1 Energy for funding under its Innovative Clean Coal
 2 Technology program and is finally approved for such funding
 3 on or after the date of enactment of the federal Clean Air Act
 4 Amendments of 1990 (P.L.101-549).

5 (c) As used in this section, "qualified pollution control property"
 6 means an air pollution control device on a coal burning energy
 7 generating facility or any equipment that constitutes clean coal
 8 technology that has been approved for use by the commission and that
 9 meets applicable state or federal requirements.

10 (d) As used in this section, "utility" refers to any energy generating
 11 utility allowed by law to earn a return on its investment.

12 (e) Upon the request of a utility that begins construction after March
 13 31, 2002, of qualified pollution control property that is to be used and
 14 useful for the public convenience, the commission shall for ratemaking
 15 purposes add to the value of that utility's property the value of the
 16 qualified pollution control property under construction.

17 (f) The commission shall adopt rules under IC 4-22-2 to implement
 18 this section.

19 SECTION 5. IC 8-1-8.7-1 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this
 21 chapter, "clean coal technology" means a technology (including
 22 precombustion treatment of coal):

23 (1) that is used in a new or existing electric generating facility and
 24 directly or indirectly reduces **or avoids** airborne emissions:

25 (A) of:

26 (i) **carbon, sulfur, mercury, or nitrogen based pollutants; or**

27 (ii) **particulate matter;**

28 (B) **that are** associated with the combustion or use of coal;
 29 and

30 (C) **that are regulated, or reasonably anticipated by the**
 31 **commission to be regulated, by:**

32 (i) **the federal government;**

33 (ii) **the state;**

34 (iii) **a political subdivision of the state; or**

35 (iv) **any agency of a unit of government described in**
 36 **items (i) through (iii); and**

37 (2) that either:

38 (A) is not in general commercial use at the same or greater

1 scale in new or existing facilities in the United States as of
 2 January 1, 1989; or
 3 (B) has been selected by the United States Department of
 4 Energy for funding under its Innovative Clean Coal
 5 Technology program and is finally approved for such funding
 6 on or after January 1, 1989."

7 Delete pages 2 through 5.

8 Page 6, delete lines 1 through 8.

9 Page 7, delete lines 14 through 42, begin a new paragraph and
 10 insert:

11 "SECTION 7. IC 8-1-8.8-3 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this
 13 chapter, "clean coal technology" means a technology (including
 14 precombustion treatment of coal):

15 (1) that is used in a new or existing energy generating facility and
 16 directly or indirectly reduces **or avoids** airborne emissions:

17 (A) of:

18 (i) **carbon**, sulfur, mercury, or nitrogen oxides;

19 (ii) **particulate matter**; or

20 (iii) other ~~regulated~~ air emissions;

21 (B) **that are** associated with the combustion or use of coal;
 22 and

23 (C) **that are regulated, or reasonably anticipated by the**
 24 **commission to be regulated, by:**

25 (i) **the federal government;**

26 (ii) **the state;**

27 (iii) **a political subdivision of the state; or**

28 (iv) **any agency of a unit of government described in**
 29 **items (i) through (iii); and**

30 (2) that either:

31 (A) was not in general commercial use at the same or greater
 32 scale in new or existing facilities in the United States at the
 33 time of enactment of the federal Clean Air Act Amendments
 34 of 1990 (P.L.101-549); or

35 (B) has been selected by the United States Department of
 36 Energy for funding under its Innovative Clean Coal
 37 Technology program and is finally approved for such funding
 38 on or after the date of enactment of the federal Clean Air Act

1 Amendments of 1990 (P.L.101-549).

2 SECTION 8. [EFFECTIVE UPON PASSAGE] (a) As used in this
3 SECTION, "commission" refers to the Indiana utility regulatory
4 commission created by IC 8-1-1-2.

5 (b) As used in this SECTION, "electric utility" means a public
6 utility (as defined in IC 8-1-2-1(a)) that:

7 (1) provides retail electric service to:

8 (A) more than four hundred thousand (400,000); but

9 (B) less than five hundred thousand (500,000);

10 retail electric customers in Indiana on April 1, 2007; and

11 (2) has a service area that includes, among other counties,
12 each of the counties described in IC 36-7-7.6-1.

13 (c) As used in this SECTION, "electric utility holding company"
14 means a corporation, company, partnership, or limited liability
15 company that owns an electric utility.

16 (d) As used in this SECTION, "regional public power
17 authority" means a multicounty public power authority established
18 to:

19 (1) acquire the generation, transmission, and distribution
20 assets of an electric utility or an electric utility holding
21 company;

22 (2) own and operate the assets described in subdivision (1);
23 and

24 (3) act as a nonprofit utility to provide retail electric service
25 to residential, commercial, industrial, and governmental
26 customers within the participating units.

27 (e) Upon the request of the county executives of three (3) or
28 more counties that are located in an electric utility's service area,
29 the commission shall study the feasibility of establishing a regional
30 public power authority. The study required by this subsection must
31 include the following:

32 (1) An examination of the need to:

33 (A) enact new state statutes or regulations; or

34 (B) amend existing state statutes or regulations;

35 to permit the establishment of a regional public power
36 authority.

37 (2) A valuation of the electric utility's generation,
38 transmission, and distribution assets to be acquired by the

1 regional public power authority.

2 (3) A study of:

3 (A) existing and potential funding sources or other
4 mechanisms, including the use of eminent domain,
5 available to the regional public power authority to acquire
6 the assets described in subdivision (2); and

7 (B) the method for determining each participating unit's
8 respective:

9 (i) contribution toward the acquisition of the assets; and

10 (ii) ownership interest in the assets acquired.

11 (4) A study of similarly sized public power authorities
12 operating in the United States, including information on the
13 assets, expenses, operations, management, and customer bases
14 of the authorities, to the extent the information is available.

15 (5) A cost benefit analysis of establishing a regional public
16 power authority.

17 (6) A determination of whether the establishment of a regional
18 public power authority is in the public interest.

19 (7) An examination of any other issues concerning the
20 establishment of a regional public power authority that the
21 commission considers relevant or necessary for study.

22 (f) As necessary to conduct the study required by subsection (e),
23 the commission may:

24 (1) make use of the commission's existing resources and
25 technical staff;

26 (2) employ or consult with outside analysts, engineers, experts,
27 or other professionals; and

28 (3) consult with other:

29 (A) public power authorities operating in the United
30 States; or

31 (B) state regulatory commissions that:

32 (i) regulate public power authorities; or

33 (ii) have conducted similar studies.

34 (g) Not later than December 31, 2007, the commission shall
35 provide a report to the following on the commission's findings from
36 the study conducted under subsection (e):

37 (1) The regulatory flexibility committee established by
38 IC 8-1-2.6-4. The report provided to the regulatory flexibility

1 committee under this subsection must be separate from the
2 commission's annual report to the regulatory flexibility
3 committee under IC 8-1-2.5-9(b).

4 (2) The legislative council. The report provided to the
5 legislative council under this subsection must be in an
6 electronic format under IC 5-14-6.

7 (3) The county executive of each county in the electric utility's
8 service area on April 1, 2007.

9 (h) The report required by subsection (g) must contain the
10 following:

11 (1) A summary of the commission's findings with respect to
12 each issue set forth in subsection (e).

13 (2) Recommendations to the regulatory flexibility committee
14 on any legislation needed to establish a regional public power
15 authority.

16 (3) Any other findings or recommendations that the
17 commission considers relevant or useful to the entities
18 described in subsection (g).

19 (i) Before the commission submits its report under subsection
20 (g), any entity described in subsection (g) may require the
21 commission to provide one (1) or more status reports on the
22 commission's study under subsection (e). A status report provided
23 to the legislative council under this subsection must be in an
24 electronic format under IC 5-14-6.

25 (j) The regulatory flexibility committee:

26 (1) shall review the analyses and recommendations of the
27 commission contained in:

28 (A) any status reports provided by the commission under
29 subsection (i); and

30 (B) the commission's final report provided under
31 subsection (g); and

32 (2) may recommend to the general assembly any legislation
33 that is necessary to establish a regional public power
34 authority in Indiana, if the regulatory flexibility committee
35 determines that the establishment of a regional public power
36 authority is in the public interest.

37 (k) This SECTION does not empower the commission or any
38 entity described in subsection (g) to require an electric utility to

1 **disclose confidential and proprietary business plans and other**
2 **confidential information without adequate protection of the**
3 **information. The commission and all entities described in**
4 **subsection (g) shall exercise all necessary caution to avoid**
5 **disclosure of confidential information supplied under this**
6 **SECTION."**

7 Delete page 8.

8 Renumber all SECTIONS consecutively.

(Reference is to SB 206 as reprinted February 2, 2007.)

and when so amended that said bill do pass.

Representative Crooks